

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

NOVO NORDISK A/S and NOVO
NORDISK, INC.

Plaintiffs,

v.

OPTIMED OF OKLAHOMA d/b/a/
BELLE VIE OF OKLAHOMA,

Defendant.

Case No. 24-cv-798-HE

PLAINTIFFS' STATUS REPORT

Pursuant to the Court's Notice and Order entered June 5, 2025 [Doc. #39], Plaintiffs Novo Nordisk A/S and Novo Nordisk, Inc. submit the following status report. The Court's June 5, 2025 Order [Doc. #39] refers to a Joint Status Report, but as set forth in Plaintiffs' Motion to Enter Default filed contemporaneously with this Status Report, Optimed is no longer represented by counsel and has communicated that it no longer intends to defend itself in this lawsuit, making a "joint" status report impossible. Plaintiffs therefore submit this report unilaterally.

Date of Conference: July 2, 2025

Appearing for Plaintiff: Timothy J. Sullivan and Christopher A. Shrock, GableGotwals;
Nathan E. Shafroth and Zoe B. Kaiser, Covington & Burling

Jury Trial Demanded X Non-Jury Trial

1. BRIEF PRELIMINARY STATEMENT:

Plaintiffs' Position: Plaintiffs contend that Defendant falsely represented its compounded drugs as equivalent to Plaintiffs' FDA-approved medicines, Ozempic® and

Wegovy®. Defendant misled customers and the public by advertising its unapproved compounded drugs as FDA approved, by advertising Plaintiffs' clinical trial results as its own, and by suggesting an association between its compounded drugs and Plaintiffs' FDA-approved medicines.

Plaintiffs further contend that Defendant has failed to defend for purposes of Federal Rule of Civil Procedure 55(a). In the last Joint Status Report, filed April 28, 2025, Defendant stated it was unable to defend this lawsuit. [Doc. #36]. Defendant's counsel withdrew May 2, 2025. [Doc. #37, 38]. Defendant has not responded to Plaintiffs' discovery requests, served May 13, 2025. Defendant did not participate in the preparation of this status report, though Plaintiffs attempted to confer prior to its submission.

2. JURISDICTION

The jurisdiction of this Court is invoked pursuant to 28 U.S.C. § 1331 because the Plaintiffs' action arises under the laws of the United States. The Court has supplemental jurisdiction over the state cause of action pleaded herein according to 28 U.S.C. § 1338(b). The Court has personal jurisdiction over Defendant because, at all relevant times, Defendant was and is domiciled in this District, and (2) venue is proper in this Court under 28 U.S.C. § 1391 because a substantial part of the events giving rise to this action occurred in this District, and Defendant resides in this District.

3. STIPULATED FACTS:

- A. Jurisdiction is admitted.
- B. Venue is appropriate.
- C. Defendant is a limited liability company located at 1501 SE 4th Street, Suite A, Moore, Oklahoma 73160.

4. CONTENTIONS AND CLAIMS FOR DAMAGES OR OTHER RELIEF SOUGHT.

1. **Plaintiffs:** This case involves Defendant's efforts to advertise its unapproved compounded drug product with statements that described Plaintiffs' FDA-approved medicines but are false as to Defendant's products, in violation of federal and state false advertising and business practices laws. In particular, Defendant claimed or implied that

(a) its compounded drugs were FDA approved for weight loss, when, in fact, only Plaintiffs offer FDA-approved medicines containing semaglutide; (b) its compounded drugs achieved certain results in clinical trials when, in fact, it was Plaintiffs' products that achieved those results; and (c) its compounded drugs are generic forms of Plaintiffs' FDA-approved medicines when, in fact, they are not. The effect of Defendant's false and misleading statements is to suggest an association between Plaintiffs' and Defendant's products where no such association exists, consequently misleading patients seeking Plaintiffs' medicines and damaging Plaintiffs' reputation.

Plaintiffs' Count I: Defendant violated the Lanham Act by using false or misleading descriptions of fact in its commercial advertising or promotion that misrepresent the nature, characteristics, and/or qualities of Defendant's business practices and products in a way that is likely to deceive the public.

Plaintiffs' Count II: For purposes of the Oklahoma Deceptive Trade Practices Act, 78 Okla. Stat. §§ 51-56, Defendant falsely passed off goods as those of Plaintiffs, knowingly making a false representation as to the source, sponsorship, approval or certification of its goods, and knowingly making a false representation as to affiliation, connection, association with, or certification of its goods by Plaintiffs and/or the FDA.

Plaintiffs have not been able to ascertain the exact extent of their damages because Plaintiffs have not had the benefit of discovery, but on information and belief, Plaintiffs seek to recover \$900,000 from Optimed pursuant to 15 U.S. Code § 1117.

5. APPLICABILITY OF FED. R. CIV. P. 5.1 AND COMPLIANCE

No claims draw into the question the constitutionality of a federal or state statute where notice is required under 28 U.S.C. § 2403 or Fed. R. Civ. P. 5.1.

6. MOTIONS PENDING OR ANTICIPATED

Plaintiffs are filing, concurrently with this Status Report, a motion for the Court to direct its Clerk to enter default against Defendant for its failure to defend as required under Federal Rule of Civil Procedure 55(a), or, in the alternative, to grant default judgment to Plaintiffs for Defendant's failure to obtain replacement counsel by June 2, 2025, as ordered by the Court. [Doc. #38].

7. **COMPLIANCE WITH RULE 26(A)(1):** The parties have not exchanged initial disclosures.

8. **PLAN FOR DISCOVERY:** Plaintiffs have attempted to confer with Defendant regarding the development of a discovery plan but have received no response. Plaintiffs understand that Defendant's prior counsel has withdrawn and that Defendant is currently unrepresented. Consequently, Plaintiffs are unable to present an agreed-upon discovery plan at this time.

9. **ESTIMATED TRIAL TIME:** Plaintiffs estimate 2-3 days, if a contested trial takes place.

10. **BIFURCATION REQUESTED:** No.

11. **POSSIBILITY OF SETTLEMENT:** Settlement appears unlikely at this time, as Defendant is not participating in the litigation.

12. **SETTLEMENT PLAN:**

- A. Compliance with LCvR 16.1(a)(1) - ADR discussion: Yes No
- B. The parties request that this case be referred to the following ADR process:
 - Court-Ordered Mediation subject to LCvR 16.3
 - Judicial Settlement Conference
 - Other _____

X None - the parties do not request ADR at this time.

13. **DO ALL PARTIES CONSENT TO TRIAL BEFORE THE ASSIGNED MAGISTRATE JUDGE?** Plaintiffs do not consent.

14. **TYPE OF SCHEDULING ORDER REQUESTED:** Because Defendant has failed to defend in this litigation, Plaintiffs respectfully request that the Court grant default judgment for Plaintiffs as to liability pursuant to Federal Rule of Civil Procedure 55(b) and set a schedule for Plaintiffs to submit evidence or conduct limited discovery to determine damages and for a hearing on same.

Respectfully submitted,

s/ Timothy J. Sullivan

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CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of June 2025, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

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Belle Vie of Oklahoma

/s/ Timothy J. Sullivan _____

Timothy J. Sullivan